

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
Petition of ALLTEL Communications, Inc.	)	
for Consent to Redefine the Service	)	
Areas of Rural Telephone Companies In the	)	
State of Michigan	)	

**PETITION OF ALLTEL COMMUNICATIONS, INC. FOR CONSENT  
TO REDEFINE THE SERVICE AREAS OF RURAL TELEPHONE  
COMPANIES IN THE STATE OF MICHIGAN**

Glenn S. Rabin  
Vice President, Federal Communications Counsel  
ALLTEL Corporation  
601 Pennsylvania Avenue, N.W.  
Suite 720  
Washington, D.C. 20004  
(202) 783-3970

Cheryl A. Tritt  
Frank W. Krogh  
Jennifer L. Kostyu  
Morrison & Foerster LLP  
2000 Pennsylvania Ave., N.W.  
Suite 5500  
Washington, D.C. 20006  
(202) 887-1500

Counsel to ALLTEL Communications, Inc.

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Pursuant to Section 54.207(c) of the Commission's rules,<sup>1</sup> ALLTEL Communications, Inc., ("ALLTEL"), petitions the Commission to approve the decision of the Michigan Public Service Commission ("MPSC")<sup>2</sup> to redefine certain rural incumbent local exchange carrier ("ILEC") service areas in Michigan on the basis of established exchanges (the "Petition"). As the MPSC concluded, redefining these rural service areas is reasonable and will serve the public interest by encouraging competition in historically non-competitive markets, extending universal service support to rural Michigan consumers, increasing consumer choice, encouraging greater economic, technology and infrastructure development, and providing affordable telecommunications services.

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<sup>1</sup> 47 C.F.R. § 54.207(c).

<sup>2</sup> *Application of ALLTEL Communications, Inc., for Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(2) of the Communications Act of 1934*, Case No. U-13765 (Sept. 11, 2003) ("MPSC Decision"), attached hereto as Exhibit A.

## **I. INTRODUCTION AND SUMMARY.**

The MPSC recently designated ALLTEL, a cellular telecommunications service provider in Michigan, as a competitive eligible telecommunications carrier (“ETC”) and thus eligible to receive federal universal service support in the state. The MPSC also approved redefining the service areas of several ILECs to facilitate ALLTEL’s receipt of such support. Under the Communications Act of 1934, as amended (the “Act”), a carrier may be designated as eligible to receive support from the universal service fund (“USF”) within a “service area.”<sup>3</sup> For an area that is served by a rural ILEC, the Act defines an ETC’s “service area” for USF support purposes as the ILEC’s study area unless the state and this Commission establish a definition for the ILEC’s “service area” that is different from the ILEC’s study area.<sup>4</sup> Thus, a competitive ETC’s “service area” is defined by the rural ILEC’s “service area,” which can differ from the ILEC’s study area only if the state regulatory agency and the Commission agree.

The area covered by a wireless carrier’s licensed service typically is not precisely congruent with the study areas of wireline carriers. Thus, an ILEC’s “service area” must be redefined to correspond to that portion of the ILEC’s study area served by a wireless carrier in order for the wireless carrier to be eligible to receive universal service support.

ALLTEL specifically seeks to redefine the rural study areas of Century Telephone – Midwest, Inc., Century Telephone Company of Northern Michigan, Century Telephone of Michigan, CenturyTel of Upper Michigan, Pigeon Telephone Company, Shiawassee Telephone Company, and Wolverine Telephone Company (collectively, the “Rural ILECs”) based upon

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<sup>3</sup> 47 U.S.C. § 214(e)(2).

<sup>4</sup> *See id.* at § 214(e)(5). A “study area” is typically an ILEC’s existing service area. The study area boundaries were fixed as of November 15, 1984. *Amendment of Part 67 of the Commission’s Rules and Establishment of a Joint Board*, 96 F.C.C.2d 781 (1984).

established exchanges, or wire centers.<sup>5</sup> ALLTEL's defined "service area" would consist of only those wire centers within the Rural ILECs' study areas in which it provides service, rather than the entire study area of each of the Rural ILECs, portions of which ALLTEL does not serve.<sup>6</sup>

Because the area covered by a wireless carrier's service typically cannot conform precisely to an ILEC's wireline study area, a rural ILEC would have a market advantage over a competitive wireless ETC if the competitive ETC were required to conform its "service area" for USF support purposes to that of the rural carrier's study area. The Act and the Commission's rules accordingly allow the "service areas" of the Rural ILECs to be defined on a non-study area basis in order for a competitive carrier to be designated as an ETC for the same "service area." In designating ALLTEL as an ETC in Michigan, the MPSC concluded that the Rural ILECs' service areas should be redefined on a basis other than their study areas.

This Commission should similarly find that redefining the Rural ILECs' service areas on a wire center basis is in the public interest because consumers in Michigan would benefit from increased consumer choices, competitive and ubiquitous services, and the deployment of additional telecommunications infrastructure. Furthermore, the Petition satisfies the Commission's rules and the recommendations of the Federal-State Joint Board on Universal

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<sup>5</sup> The MPSC directed ALLTEL to file a list "of the exchanges where it currently provides service or intends to provide service under its license and for which it wishes to receive universal service support and is able to meet universal service obligations." *MPSC Decision* at 16. ALLTEL submitted to the MPSC a list of all rural and non-rural exchanges it serves in Michigan on September 17, 2003, which was amended on December 2, 2003. A copy of ALLTEL's September 17 and December 2 filings are attached hereto as Exhibit B. A list of only the rural Michigan exchanges ALLTEL serves, which are the subject of this Petition, is attached hereto as Exhibit C. The exchanges listed in Exhibit C correspond to existing wire centers within the Rural ILECs' study areas. Accordingly, references to "exchanges" and "wire centers" in this Petition shall have the same meaning.

<sup>6</sup> ALLTEL does provide service in portions of certain ILEC wire centers, although, it is not seeking ETC status for those partially-served wire centers. *See infra* n.15.

Service (“Joint Board”). ALLTEL also requests that the Commission consider the Petition promptly so as to minimize the delay in bringing these benefits to consumers.

## **II. BACKGROUND.**

### **A. The Universal Service Statutory And Regulatory Framework Provides For The Redefinition Of The Service Areas Of Rural Telephone Companies.**

Section 254 of the Act<sup>7</sup> directs the Commission and states to establish universal service support mechanisms for the provision of affordable and quality telecommunications services to all Americans. Carriers with ETC status may receive federal universal service support if they provide and advertise the availability of services that are supported by the universal service mechanism.<sup>8</sup> States may designate carriers as ETCs in rural service areas so long as they meet the universal service requirements and the designation is consistent with the public interest, convenience, and necessity.<sup>9</sup>

The Act specifically defines an ETC’s service area as the “geographic area established by a State commission ... for the purpose of determining universal service obligations and support mechanisms.”<sup>10</sup> For regions specifically served by incumbent rural carriers, “service area” refers to an incumbent carrier’s study area “unless and until the Commission and the States, after taking into account recommendations of [the] Federal-State Joint Board. . . establish a different definition of service area for such [incumbent] company.”<sup>11</sup> The Commission has long recognized that requiring a new market entrant – especially a wireless service provider – to

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<sup>7</sup> 47 U.S.C. § 254.

<sup>8</sup> *Id.* § 214(e)(1).

<sup>9</sup> *Id.* § 214(e)(2).

<sup>10</sup> *Id.* at § 214(e)(5).

<sup>11</sup> *Id.*

conform its service area to the existing study area of an ILEC gives the ILEC an undue market advantage.<sup>12</sup> To avoid such an anti-competitive result, a state, acting in concert with this Commission, may define the service area of a rural ILEC on a basis other than its study area so that a wireless carrier can be designated as an ETC for the same “service area.”<sup>13</sup> The Commission expressly established procedures to seek its approval of a state commission’s decision to define the service areas of rural ILECs so that they do not conform to their study areas.<sup>14</sup>

**B. The MPSC Designated ALLTEL As An ETC In Michigan And Approved Redefining The Rural ILECs’ Service Areas.**

On April 14, 2003, ALLTEL filed an application with the MPSC seeking designation as an ETC in its wireless service areas in Michigan. ALLTEL committed to provide service throughout its entire licensed service area in the state.<sup>15</sup> In its application, however, ALLTEL requested that the ILEC study areas only partially served by it be redefined on a basis other than the ILECs’ study areas. ALLTEL made this request because, as a wireless carrier, it is licensed by cellular market areas (“CMAs”), which typically differ in size and have different boundary lines from rural ILEC study areas.

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<sup>12</sup> *Federal-State Joint Board on Universal Service*, 12 FCC Rcd 8776, 8879-80 (1997) (“*Universal Service Order*”).

<sup>13</sup> *Id.* at 8880 (“We conclude that the plain language of Section 214(e)(5) dictates that neither the Commission nor the states may act alone to alter the definition of service areas served by rural carriers.”).

<sup>14</sup> *See id.* at 8880-81; 47 C.F.R. § 54.207(c)(1).

<sup>15</sup> *See MPSC Decision* at 3. ALLTEL provides service in portions of certain ILEC wire centers. ALLTEL, however, is not seeking ETC status for those partially-served wire centers due to potential difficulties in allocating costs and universal service support for areas that are smaller than a wire center.

Defining the Rural ILECs' service areas on a wire center basis ensures that ALLTEL receives federal universal service support only for those Rural ILEC wire centers in which it provides competitive ETC services, rather than support for an entire study area that it may not completely serve. The MPSC issued its decision granting ALLTEL's application on September 11, 2003, finding that redefining the Rural ILECs' service areas was in the public interest. A copy of the MPSC's decision is attached hereto as Exhibit A. Pursuant to Section 54.207(c)(1) of the Commission's rules, ALLTEL petitions the Commission for approval of the MPSC's decision to redefine these service areas.

### **III. REDFINING THE RURAL ILECS' SERVICE AREAS SERVES THE PUBLIC INTEREST.**

In granting ALLTEL's ETC application, the MPSC considered multiple factors, including: (1) increasing competition; (2) increasing consumer choice; (3) promoting universal service; (4) encouraging greater economic, technology and infrastructure development; (5) encouraging affordable telecommunications services; and (6) providing telecommunications services in areas where there are few, if any, competitive carriers.<sup>16</sup> The MPSC concluded that designating ALLTEL as an ETC throughout its service areas in Michigan, thus also defining ALLTEL's service area on a basis other than the Rural ILECs' study areas, would benefit Michigan consumers in these ways.

For the same reasons, the Commission also should find that redefining the Rural ILECs' service areas is in the public interest. The Commission has concluded in similar cases that redefining the service areas of rural carriers on a wire center basis satisfies the policies of the Act and the Commission to promote quality and affordable telecommunications services to all

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<sup>16</sup> *MPSC Decision* at 11, attached hereto as Exhibit A.



Americans.<sup>17</sup> Furthermore, as explained below, redefining these particular service areas: (1) will minimize the incentive for ALLTEL to engage in deliberate or inadvertent cream skimming; (2) will not harm or affect the Rural ILECs' status as rural telephone companies; and (3) will not be administratively burdensome for the Rural ILECs.

#### **IV. REDEFINING THE RURAL ILECS' SERVICE AREAS SATISFIES THE COMMISSION'S RULES AND THE RECOMMENDATIONS OF THE JOINT BOARD.**

Section 54.207(c)(1) sets forth the requirements for seeking the Commission's approval of a state's decision to allow a competitive ETC to have a service area different from that of a rural ILEC study area. Specifically, the petition must contain a list of the redefined service areas proposed by the state commission.<sup>18</sup> Exhibit B to the Petition identifies the Rural ILECs' service areas in Michigan for which ALLTEL seeks Commission consent to redefine on a wire center basis.

Pursuant to Section 54.207(c)(1), the petition also must include the state's ruling or statement explaining why it adopted the redefined service areas.<sup>19</sup> A copy of the MPSC's decision approving the redefinition of the Rural ILECs' service areas in Michigan is attached

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<sup>17</sup> See, e.g., *Federal-State Joint Board on Universal Service; RCC Holdings, Inc., Petition for Designation as an Eligible Telecommunications Carrier Throughout its Licensed Service Area in the State of Alabama*, 17 FCC Rcd 23532, 23547-48 (WCB 2002) ("*RCC Holdings*") (granting the wireless competitive ETC's request to redefine the service areas of certain rural telephone companies in Alabama on a wire center by wire center basis); *Federal-State Joint Board on Universal Service; Cellular South License, Inc., Petition for Designation as an Eligible Telecommunications Carrier Throughout its Licensed Service Area in the State of Alabama*, 17 FCC Rcd 24393, 24407 (WCB 2002) ("*Cellular South*") (same); *Petition for Agreement with Designation of Rural Company Eligible Telecommunications Carrier Service Areas*, 15 FCC Rcd 9921, 9927-28 (CCB 1999) (granting the requests of the Washington Utilities and Transportation Commission and various carriers to redefine the service areas of certain rural telephone companies in Washington on a wire center by wire center basis).

<sup>18</sup> 47 C.F.R. § 54.207(c)(1)(i).

<sup>19</sup> *Id.* § 54.207(c)(1)(ii).

hereto as Exhibit A. The petition should further include “an analysis that takes into account the recommendations of any Federal-State Joint Board convened to provide recommendations with respect to the definition of a service area served by a rural telephone company.”<sup>20</sup> The Joint Board has in turn identified three factors that should be considered when reviewing such petitions: (1) the potential for “cherry picking” or “cream skimming;” (2) the unique status of rural carriers; and (3) administrative burdens that may be imposed on rural carriers as a result of not defining the service area of a competitive ETC by study area.<sup>21</sup> As discussed below, the Petition adequately addresses the concerns elucidated by the Joint Board. Accordingly, the Petition meets the criteria of Section 54.207(c)(1).

**A. Redefining The Service Areas Of The Rural ILECs Minimizes The Incentive To “Cream Skim.”**

The MPSC addressed in its decision whether redefining the service areas of the Rural ILECs would result in “cherry picking” or “cream skimming” by ALLTEL.<sup>22</sup> These terms refer to the practice of picking and serving only the lowest cost exchanges within a rural ILEC’s study area. The MPSC concluded that in this case there is little incentive for ALLTEL to cherry pick or cream skim for the low cost exchanges.<sup>23</sup> In addition, it noted that established “exchanges tend to encompass many types of customers, including rural and high-cost customers.... Much of the area covered by ALLTEL’s wireless carrier license is in very rural parts of Michigan.”<sup>24</sup>

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<sup>20</sup> *Id.*

<sup>21</sup> *Federal-State Joint Board on Universal Service*, Recommended Decision, 12 FCC Rcd 87, 180 (1996) (subsequent history omitted) (“*Recommended Decision*”).

<sup>22</sup> *MPSC Decision* at 14-15, attached hereto as Exhibit A.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 15.

The Commission also has previously recognized that “a request for ETC designation for an area less than the entire study area of a rural telephone company might raise concerns that the petitioner will be able to cream skim in the rural study area.”<sup>25</sup> The Commission has determined, however, that wireless carriers are often constrained by their FCC licenses as to where they can provide service and has concluded that cream skimming concerns are minimized when the wireless carrier commits to provide universal service throughout its licensed service area.<sup>26</sup>

Because ALLTEL has committed to provide service throughout its entire licensed service area in Michigan, its inability to completely serve the study areas of some of the rural telephone companies does not raise cream skimming concerns. ALLTEL will not “pick and choose” which areas to serve and will respond to all customers’ requests for service throughout its licensed service area. Furthermore, the Rural ILECs have the option of filing disaggregation plans so that they can target per-line support below the study area level and prevent wireless carriers from averaging high-cost support across all lines within their study areas.<sup>27</sup> The Commission has often stated that disaggregating and targeting high-cost support eliminates any incentive on the part of wireless carriers to cream skim.<sup>28</sup>

The specific facts in this case further confirm that defining the rural portions of ALLTEL’s service area on a wire center basis will not result in deliberate or even “inadvertent” rural cream skimming. ALLTEL intends to serve portions of the study areas of seven rural

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<sup>25</sup> *RCC Holdings*, 17 FCC Rcd at 23542-43.

<sup>26</sup> *Id.* at 23542; *Cellular South*, 17 FCC Rcd at 24404; *Recommended Decision*, 12 FCC Rcd at 180.

<sup>27</sup> *Federal-State Joint Board on Universal Service; Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, 16 FCC Rcd 11244, 11302 (2001).

<sup>28</sup> *Id.*; *RCC Holdings*, 17 FCC Rcd at 23544; *Cellular South*, 17 FCC Rcd at 24405.

carriers, which are the subject of the Petition.<sup>29</sup> The majority of the Rural ILECs already have filed disaggregation plans with the Universal Service Administrative Company.<sup>30</sup> These plans should keep higher levels of universal service support allocated to higher-cost, lower-density areas, further precluding the risk of cream skimming. Those Rural ILECs that have not chosen to file disaggregation plans still may do so. Accordingly, the opportunity for deliberate or inadvertent rural cream skimming is greatly reduced in this case.<sup>31</sup>

**B. The Rural ILECs' Unique Status As Rural Telephone Companies Does Not Preclude Redefining Their Service Areas.**

The Joint Board previously noted that rural carriers are “on a different competitive footing” from non-rural carriers.<sup>32</sup> This unique position does not preclude defining rural service areas on a wire center basis. The MPSC considered multiple factors in reviewing ALLTEL’s application for ETC status and concluded that redefining the service areas of the Rural ILECs would serve the public interest.<sup>33</sup>

The Commission should similarly conclude that redefining the service areas of the Rural ILECs will not harm or diminish the rural status of these carriers. The Rural ILECs’ ability to continue to provide telecommunications services will not be affected by ALLTEL having a

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<sup>29</sup> See “Rural Study Areas Partially Served By ALLTEL,” attached hereto as Exhibit C.

<sup>30</sup> Century Telephone-Midwest, Inc., Century Telephone of Michigan, CenturyTel of Upper Michigan and Shiawassee Telephone Company already have filed disaggregation plans. Only Century Telephone Company of Northern Michigan, Pigeon Telephone Company, and Wolverine Telephone Company have not yet filed disaggregation plans. See USAC: High Cost Disaggregation - Checklist, available at <http://www.universalservice.org/hc/disaggregation/checklist.asp>.

<sup>31</sup> See *RCC Holdings*, 17 FCC Rcd at 23544; *Cellular South*, 17 FCC Rcd at 24405.

<sup>32</sup> *Recommended Decision*, 12 FCC Rcd at 180.

<sup>33</sup> *MPSC Decision* at 11, 13-15, attached hereto as Exhibit A.

defined service area different from their study areas. Furthermore, any special considerations currently given to the Rural ILECs under the Act – such as exemptions from interconnection, unbundling and resale requirements – will remain in place. The Commission recognized in *RCC Holdings* that redefining the service areas of rural telephone companies by wire center will not harm the incumbents:

The universal service mechanism supports all lines served by ETCs in rural areas. Therefore, to the extent that *RCC Holdings* or any future competitive ETC provides new lines to currently unserved customers or second lines to existing wireline subscribers, it will have no impact on the amount of universal service support available to the incumbent rural telephone companies for those lines they continue to serve. Similarly, redefining the service areas of the affected rural telephone companies will not change the amount of universal service support that is available to these incumbents.<sup>34</sup>

Redefining the service areas of the Rural ILECs will, in fact, help protect these companies by ensuring that levels of universal service support are appropriately allocated based on the cost and population density of each service area.

**C. Redefining The Service Areas Of The Rural ILECs Will Not Be Administratively Burdensome.**

The Joint Board also raised concerns that rural telephone companies would incur increased administrative burdens if required to calculate costs on a basis other than by their entire study areas.<sup>35</sup> As previously noted, the MPSC concluded that redefining the service areas of the Rural ILECs would serve the public interest after considering multiple factors.<sup>36</sup> According to the MPSC, “designating service areas utilizing entire exchanges will minimize the

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<sup>34</sup> *RCC Holdings*, 17 FCC Rcd at 23548 (citation omitted); see also *Cellular South*, 17 FCC Rcd at 24407.

<sup>35</sup> *Recommended Decision*, 12 FCC Rcd at 180.

<sup>36</sup> *MPSC Decision* at 11, 13-15, attached hereto as Exhibit A.

administrative burden on rural telephone companies to calculate costs at something other than a study area level. This approach will require affected ILECs to disaggregate into service areas that are coterminous with existing telecommunications boundaries for which costs are already calculated.”<sup>37</sup>

The Commission also has previously concluded that allowing a rural ILEC’s “service area” to be redefined on a wire center basis does not impose additional administrative burdens on the rural incumbent.<sup>38</sup> According to the Commission:

[R]edefining the rural telephone company service areas by wire center boundary will not require the rural telephone companies to determine their costs on a basis other than the study area level. Rather, the redefinition merely enables competitive ETCs to serve areas that are smaller than the entire incumbent rural telephone company’s study area. Our decision to redefine the service areas does not modify the existing rules applicable to rural telephone companies for calculating costs on a study area basis. Therefore, we find that the concern of the Joint Board that redefining rural service areas would impose additional administrative burdens on affected rural telephone companies is not at issue here.<sup>39</sup>

The proposed redefinition of the Rural ILECs’ service areas in this case similarly will not impose additional administrative burdens on them. Accordingly, the Commission should grant ALLTEL’s request to redefine the partially served Rural ILECs’ service areas on a wire center basis.

## **V. CONCLUSION.**

The MPSC found that defining ALLTEL’s service areas in Michigan based upon established exchanges is consistent with the Act, Commission policies, and the recommendations of the Joint Board. Specifically, the MPSC concluded that designating ALLTEL as an ETC in

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<sup>37</sup> *MPSC Decision* at 15, attached hereto as Exhibit A.

<sup>38</sup> *RCC Holdings*, 17 FCC Rcd at 23548.

<sup>39</sup> *Id.*

Michigan and redefining the service areas of the Rural ILECs serve the public interest by promoting competition, consumer choice, telecommunications infrastructure development, and ubiquitous and affordable service to Michigan consumers. ALLTEL therefore requests that the Commission promptly approve the MPSC's decision to redefine the service areas of the Rural ILECs on an exchange basis.

Respectfully submitted,

Glenn S. Rabin  
Vice President, Federal Communications Counsel  
ALLTEL Corporation  
601 Pennsylvania Avenue, N.W.  
Suite 720  
Washington, D.C. 20004  
(202) 783-3970

/s/ Cheryl A. Tritt  
Cheryl A. Tritt  
Frank W. Krogh  
Jennifer L. Kostyu  
Morrison & Foerster LLP  
2000 Pennsylvania Ave., N.W.  
Suite 5500  
Washington, D.C. 20006  
(202) 887-1500

Counsel to ALLTEL Communications, Inc.

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